

Remarks

I. Status of the Claims

Reconsideration of this Application is respectfully requested.

By the foregoing amendments, claims 84, 138, 188 and 242 are sought to be amended. Claims 92-133, 146-181, 196-237 and 250-285 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein. Applicants reserve the right to pursue the cancelled subject matter in related applications. These amendments add no new matter to the application. Accordingly, entry and consideration of the amendments are respectfully requested.

Upon entry of these amendments, claims 78-91, 134-145, 182-195, and 238-249 are pending in the application, with claims 78, 134, 182 and 238 being the independent claims. The Examiner has allowed pending claims 78-91 and 134-145.

Based on the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

II. Summary of the Office Action

In the Office Action dated April 10, 2006, the Examiner has made one objection to the title and one rejection of the claims. Applicants respectfully offer the following remarks concerning each of these elements of the Office Action.

III. Objection to the Title

On page 2 of the Office Action, the title has been objected to for allegedly not being descriptive. Applicants respectfully disagree with this objection. However, in an

effort to advance prosecution, Applicants have amended the title as suggested by the Examiner.

IV. The Rejection Under 35 U.S.C. § 112, Second Paragraph is Traversed

On page 2 of the Office Action, claims 182-285 have been rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite for omitting essential elements, such omission amounting to a gap between the elements. As indicated above, claims 196-237 and 250-285 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein, thus rendering moot this rejection as applied to these claims. Applicants respectfully traverse this rejection with respect to the remaining claims.

The Examiner states that "[t]he method requires inducing apoptosis in DR5-expressing cells and comprises the use of an antibody that binds DR5. However the method cannot be accomplished if the antibody is not an agonist antibody. An agonist antibody is an essential element for the method." *See* Office Action at page 2. Applicants respectfully disagree.

Whether claim is invalid for indefiniteness depends on whether those skilled in the art would understand scope of claim when claim is read in light of specification. *N. Am. Vaccine, Inc. v. Am. Cyanamid Co.*, 7 F.3d 1571, 1579 (Fed. Cir. 1993). Applicants note that 35 U.S.C. § 112 does not require the claims to include further limitations if the claim terms would be clearly understood by one of ordinary skill in the art. Indeed, Applicants respectfully assert that one of skill in the art would know what type of antibodies could be used to induce apoptosis of a DR5-expressing cell. Furthermore,

Applicants assert that one of skill would easily be able to identify such antibodies in light of the specification. Thus, Applicants assert that the addition of the term "agonist" in the claim is unnecessary. Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, second paragraph are respectfully requested.


V. Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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